

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OHIO
3 EASTERN DIVISION

4 ALISON O'DONNELL,

5 Plaintiff,
6 vs.

Case No. 1:16-cv-2450
Judge Donald E. Nugent

7 UNIVERSITY HOSPITALS
8 HEALTH SYSTEM, et al.,

9 Defendants.

10 DEPOSITION OF ROSE A. GUBITOSI-KLUG, M.D.
11 Tuesday, August 15, 2017

12 The deposition of ROSE A. GUBITOSI-KLUG,
13 M.D., a Defendant herein, called for
14 examination by the Plaintiff under the Federal
15 Rules of Civil Procedure, taken before me,
16 Diane M. Stevenson, a Registered Diplomate
17 Reporter, Certified Realtime Reporter, and
18 Notary Public in and for the state of Ohio,
19 pursuant to notice, at The Spitz Law Firm,
20 25200 Chagrin Blvd., Suite 200, Beachwood,
21 Ohio, commencing at 9:51 a.m., the day and date
22 above set forth.

23
24
25 Stevenson Reporting Service, Inc.
 2197 Macon Court Westlake, Ohio 44145
 440.892.8600 diane@nls.net

1 So most people will go the clinician-
2 educator path. I mean, they are going to
3 primarily see patients, inpatient/outpatient,
4 and then have some role in the education of
5 medical students, residents, fellows down the
6 line, a more prominent role.

7 I was, actually, probably the last full
8 research fellow that went through our program
9 and was on a training program grant and did
10:19 10 more, you know, more research in the lab
11 because of my background with a Ph.D., so there
12 is that track, and there are other ways to
13 promote a fellow through that track.

14 But most applicants are clinician-
15 education. I remember Alison wanting to do
16 clinician-educator long term.

17 Q. You mentioned this research project, which was
18 a requirement specific, under like adult
19 endocrinology fellowships, it is specific to
10:20 20 pediatric endocrinology fellowships, correct?

21 A. Yes.

22 Q. That is a requirement that a fellow, by the end
23 of their three years, must meet to have that
24 research project that they have developed?

25 A. Correct, correct. So they have to -- you know,

1 they have to write, do a write-up on their
2 research project, demonstrating it is a
3 meaningful work product. What did they learn?

4 So, quite frankly, if they did a chart
5 review, meaning they didn't recruit new
6 patients, they had a question and they sought
7 IRB approval, or Institutional Review Board
8 approval, to look back in patient's charts and
9 to pull this information and analyze the data,
10:20 10 that is a sufficient work product that they
11 could write up that experience, and that is
12 great.

13 That is what many fellows do, whether they
14 use their own patient charts or they use
15 national databases, there are national
16 databases like NHANES, et cetera, where they
17 can extract data and analyze it. That is great
18 as long as they made a hypothesis, listed their
19 questions and their aims and done that
20 development.

21 Others want to do a small pilot study
22 where they recruit patients and ask surveys on
23 nutrition and its relationship to exercise and
24 diabetes, and that is fine too.

25 We let the fellows tell us what they are

1 intensive care unit are there for months. So
2 there is definitely a pool of patients on the
3 sign-out that are patients who have been there
4 for some time, so you are inheriting these
5 consults or these follow-up patients.

6 All of the new ones, though, tend to be,
7 typically, new onset diabetes.

8 Q. When a new fellow is first starting out, say is
9 in their first week of hospital coverage, what
10 resources do they have if they need assistance?
11 Could they reach to you or another faculty
12 member if they have an issue and they don't
13 feel comfortable?

14 A. Oh, yes, absolutely. You know, we all
15 anticipate in that first week that they are
16 going to need a lot more support. It is a
17 whole new system.

18 Back then we didn't have the electronic
19 medical record, so there was at least not that
10:38 20 hurdle. But where are the charts? Where are
21 the patients? The numbering system on the
22 floor at Rainbow are a little unusual, so you
23 might have 600 rooms, but it is Rainbow the
24 third floor, but it is 3-612.

25 So just orienting them. And the senior

1 Dr. O'Donnell has commented, commented what?

2 A. No, I thought in the allegations I had read
3 something about not --

4 Q. You are failing to assist her?

5 A. Failing to assist her, yes.

6 Q. Do you disagree with that allegation?

7 A. I think it has been many years, so I can't
8 imagine that I didn't, because I do that
9 routinely with all of the new fellows.

10:42 10 But I don't remember the instance in
11 particular as to what she was asking for
12 assistance for.

13 Q. Do you participate at all in the process of
14 clinic assignments or clinic scheduling for the
15 new fellows?

16 A. No. That would be under the privy of the
17 fellowship directors.

18 Q. Do you have any personal knowledge as to the
19 timing of when a clinic schedule or schedule of
10:42 20 assignments is given to a fellow in terms of
21 how far in advance would he or she know when
22 they are going to be assigned to a specific
23 clinic?

24 A. Yes, I will only comment that that has
25 continuously been a work in progress. We would

1 they get older."

2 So, I mean, there are a lot of
3 discussions, a lot of different cases that can
4 come up.

5 Q. All right. So if Dr. O'Donnell testified that
6 oftentimes these Wednesday conferences would
7 sort of devolve into outright shouting matches
8 including cussing and other things --

9 A. What?

10 11:06 Q. -- you wouldn't agree with that?

11 A. I would not agree with that.

12 Q. Okay. When did you learn that Dr. O'Donnell
13 had an anxiety disorder?

14 A. I only became aware of that as we have been
15 going through these proceedings.

16 I always wondered if Alison -- you know,
17 during her initial interview, again, I thought
18 she interviewed very well. There was maybe a
19 little bit of what I would say is a stutter to
20 11:07 her voice at times, but that was just
21 anxiousness, trying to impress.

22 You know, you are in that situation where
23 you are trying to impress the faculty because
24 you are eager to train, and that sort of thing.

25 And then subsequently, in fellowship,

1 again, she might start a presentation and have
2 kind of a stutter or a little bit of speech
3 slurring, but never did we not get through.

4 Like, you know, we do case reviews in my
5 office if we are on inpatient service, you
6 know, again, before they go and usually see the
7 patient and then come and will talk to us, and
8 we will go through the history together, see if
9 there are any other questions we need to ask,
11:08 10 come up with a treatment plan together, and
11 then go back to see the patient family and give
12 our final recommendations.

13 She might be anxious, stutter a little bit
14 in the beginning, but never did not get through
15 a meeting together. She never was not able to
16 respond to my questions or in any way, again,
17 couldn't complete our session, et cetera,
18 couldn't complete the discussion. We always
19 completed.

11:08 20 If I felt like her -- we always give the
21 fellow the chance to say first what they would
22 do. And then we say, "Well, I agree with that,
23 but I probably would also check X, Y, Z."

24 And then we come up with a comprehensive
25 plan in the end together. So on Wednesdays,

1 And if someone is not participating as much, we
2 might encourage them the first time to say,
3 "Okay, what else do you want to know, Alison?"
4 And that sort of thing.

5 Q. Okay.

6 A. So she may have been a little more quiet, but I
7 think she is more reserved by nature, as well.

8 Q. How did she compare in these Wednesday
9 conferences to the other first-year fellow in
10 terms of her being an active participant
11 during these conferences?

12 Were they about the same because they were
13 both in their first year, or were they
14 different?

15 A. I don't remember them being -- I don't remember
16 them being strikingly different. So we are
17 watching them, how they engage, which a lot of
18 it can be personality in these discussions when
19 they are not presenting.

20 And then the big thing is when they are
21 presenting can they go from the patient and
22 then seamlessly into the physiology and then to
23 the in-depth discussion? Can they lead us down
24 this entire path?

25 That is when we, especially in someone who

1 document.

2 A. I have not seen this before, Exhibit 5.

3 Q. So, obviously, that was something you were made
4 privy to at any point during Dr. O'Donnell's
5 time with the fellowship, correct?

6 A. Correct. I don't see a date. But no, I have
7 never seen this before.

8 Q. Did you become aware at some point during
9 Dr. O'Donnell's fellowship that she was making
11:41 10 complaints, specifically against Dr. Uli and
11 some other faculty members, that she was being
12 harassed and discriminated against?

13 A. I was aware of some complaints. I wasn't aware
14 of the details of the complaints or, yeah, the
15 depth of the allegations, I guess you would
16 say, or the comments.

17 (Plaintiff's Exhibit 29 was introduced for
18 identification.)

19 Q. I am going to hand you Exhibit 29, which is a
11:42 20 letter that I had asked Dr. Uli about. Tell me
21 whether you have ever seen that before.

22 A. So Exhibit 29 I have not seen before.

23 Q. Do you know who Julie Chester is?

24 A. I do not know Julie.

25 Q. Have you ever spoken to Julie Chester?

1 A. I don't believe so.

2 Q. Did you ever, between 2010 and 2012 when
3 Dr. O'Donnell left the fellowship, did you ever
4 have any communications with anyone from UH, HR
5 or employee relations, about any harassment or
6 discrimination complaints that she had against
7 any of your faculty members and the fellowship?

8 A. No. Again, I had heard that there had been
9 some complaints, but I did not know any of the
10 details.

11 Q. And you were never interviewed or questioned
12 about it?

13 A. I don't remember ever being interviewed about
14 it, no.

15 Q. Now, earlier we were talking about the research
16 projects, and you started to go into a few of
17 the ideas that Dr. O'Donnell had presented or
18 had wanted to pursue, correct?

19 A. Yes.

20 (Plaintiff's Exhibit 28 was introduced for
21 identification.)

22 Q. I am going to hand you what I have previously
23 marked as Exhibit 28. Let me know when you
24 have had a chance to review it.

25 A. Okay, I have reviewed Exhibit 28.

1 projects."

2 Let me stop there. She then goes on to
3 say that she feels she is not being given the
4 same opportunities as previous fellows.

5 At this point after she had come with two
6 ideas that she was told that she wouldn't be
7 able to pursue for the reasons stated, did you
8 suggest that she work on a project with another
9 fellow?

10 A. So yes. You know, this is very typical, and I
11 think, unfortunately, this is August of her
12 second year, so a whole year has gone by. We
13 usually like that final have selected the
14 research project by the end of the first year,
15 so we are kind of over, past that schedule.

16 They have a limited time, especially then,
17 at the -- typically, there is six months of
18 pretty intense clinical, then two years of
19 clinical/research, and then another six months
20 at the end as a senior fellow, very intense
21 clinical where they are really kind of running
22 the show on rounds and being almost a junior
23 faculty member.

24 So this is a critical time here in August
25 of 2011 that she get a project. The IRB is the

1 but you don't have all the details.

2 I mean, you are asked when you are on
3 service to quickly come up with a differential
4 and to make management decisions. And that is
5 what we have to prepare them for.

6 Again, they may not be on service when
7 said case comes in, but these conferences are
8 their ability to experience the realm. And you
9 really have to be. I mean, it is a requirement
10 to be an academic physician.

11 Q. Sure. And she says in here that she is
12 inviting questions, correct?

13 A. She does.

14 Q. So, I mean, that suggests to me --

15 A. And we do, we did.

16 Q. That suggests to me that her issue was not
17 being cold-called upon and being unable to
18 answer the questions. It suggests that maybe
19 she is not always the first one to be the
20 gunner in the lecture room to answer the
21 question. Instead, she is inviting you to,
22 essentially, call her out to say, you know, if
23 two questions have gone by and maybe she hasn't
24 been the first one to: "I know," then on the
25 third question, specifically just call on her,

1 "Dr. O'Donnell, you haven't chimed in yet, so
2 what do you specifically think about this?"

3 A. Correct. And I am sure we did that.

4 Q. Yes. And that is something that you could do,
5 correct, and that you did do?

6 A. We could do and we did do.

7 Q. Okay. At that point, I mean, whenever
8 Dr. O'Donnell was called on in one of these
9 Wednesday conferences, was there ever a time
10 where she said, "No, I am not going to answer
11 that question" or "I am refusing to
12 participate"?

13 A. I don't remember her ever refusing to
14 participate. I remember her giving answers
15 that, again, at this point, were not at the
16 level of questions that we would expect of a
17 fellow.

18 Or she would say, "You know, I would have
19 asked what So and So asked; I don't have any
20 new questions." She never evaded asking, but
21 she may have not had anything new to ask, when
22 we all felt there were definitely questions
23 that needed to be clarified.

24 Because many times the cases are
25 presented, as I said, in an unknown fashion.

1 CERTIFICATE

2 State of Ohio,)
3) SS:
4 County of Cuyahoga.)

5 I, Diane M. Stevenson, a Registered
6 Diplomate Reporter, Certified Realtime
7 Reporter, and Notary Public in and for the
8 state of Ohio, duly commissioned and qualified,
9 do hereby certify that the within-named
10 witness, ROSE A. GUBITOSI-KLUG, M.D., was by me
11 first duly sworn to testify the truth, the
whole truth and nothing but the truth in the
cause aforesaid; that the testimony then given
by her was by me reduced to stenotypy in the
presence of said witness, afterwards
transcribed by means of computer-aided
transcription, and that the foregoing is a true
and correct transcript of the testimony as
given by her as aforesaid.

12 I do further certify that this deposition
13 was taken at the time and place in the
foregoing caption specified, and was completed
14 without adjournment.

15 I do further certify that I am not a
relative, employee or attorney of any party, I
16 am not, nor is the court reporting firm with
which I am affiliated, under contract as
defined in Civil Rule 28(D), or otherwise
17 interested in the event of this action.

18 IN WITNESS WHEREOF, I have hereunto set
19 my hand and affixed my seal of office at
Westlake, Ohio, the 9th day of November 2017.



20
21 Diane M. Stevenson, RDR, CRR
22 Registered Diplomate Reporter
23 Certified Realtime Reporter
24 Notary Public in and for
The State of Ohio

25 My Commission expires December 9, 2020.